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Coronavirus: Corporate Implications And Recommendations

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EXECUTIVE SUMMARY

Coronavirus at this writing is spreading rapidly around the world, and corporations must be prepared for risks to their employees and disruptions to their operations. In this note, we detail several implications to corporations that should be considered in both short- and long-term planning to maintain health and profitability. Issues such as disrupted supply chains, compromised business travel, employees out of office, cancelled international conferences, and potential legal liabilities are all assessed to provide C-suite leadership with greater situational awareness. Recommendations are made for companies of all sizes and sectors to enable proactive planning in the looming darkness of a potential global pandemic. Corporate preparedness is critical as the world confronts this deadly disease.

INTRODUCTION

A potential pandemic is upon the world with Coronavirus, which causes the disease COVID-19. At this writing, there are >82,000 confirmed cases (>78,000 of which are in China, but also confirmed cases in at least 40 other States on every continent except Antarctica); >2,800 deaths; and >33,000 confirmed recoveries.¹ A Harvard University epidemiologist stated on February 25th that "...it's likely we'll see a global pandemic of coronavirus, with 40 to 70 percent of the world's population likely to be infected this year."² A WHO advisor's model also estimates that 2/3 of the global population will ultimately be infected.³

The first case of a "community spread" coronavirus patient was reported on February 27th: "The California patient didn't travel anywhere known to have the virus, the US Centers for Disease Control and Prevention said. And the patient wasn't exposed to anyone known to be infected." This case introduces much uncertainty as to whom can be a source of exposure, whereas previously the threatscape could be sourced to China. The graphic below from the CDC shows States with confirmed COVID-19 cases as of 11:00 a.m. ET, February 27th.⁴

Such a global disease rapidly moving from within countries and from State to State is already disrupting the global economy, and corporations must understand how they can respond to its impacts upon employees, operations and sales. Within two days (February 24 to 25), the Dow Jones dropped more than 8% below its high the prior week; this fall was ascribed to uncertainty of



Locations with Confirmed COVID-19 Cases, as of 11:00 a.m. ET, February 27, 2020.⁴

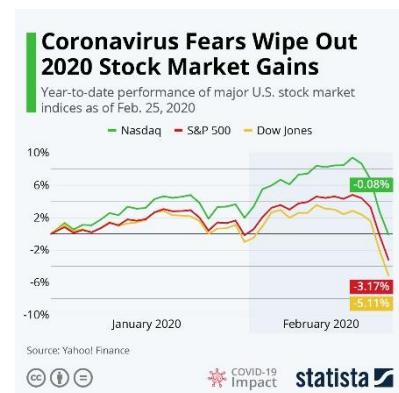
the spread of coronavirus.⁵ Some economists are pointing to the possibility of a global recession because of coronavirus.⁶

Unfortunately, it does not appear that corporations can rely upon governments to manage the outbreak.⁷ China tried to censor initial reports of the virus.⁸ Iran's deputy health minister declared all was under control, and then he contracted the virus the next day.⁹ Many traditional government tools for stimulating economic activity may be ineffective against a pandemic.

US health officials warn Americans to plan for inevitable spread of coronavirus across the country. Preparedness needs to be considered by everyone: "Those measures could include school closings, workplace shutdowns and canceling large gatherings and public events."¹⁰ However, there has been a run on N95 protective masks at Home Depot, as well as price gouging on Amazon.¹¹

Moreover, the current US Administration does not appear prepared to deal with a pandemic. The President sought to downplay the implications for the U.S. economy on February 26th. "Lawmakers in both parties on Tuesday expressed growing alarm that the threat of coronavirus in the United States is serious, and that the Trump administration is not doing enough to fight it."¹² The White House told government health officials and scientists not to say anything about the coronavirus unless it is approved by Vice President Mike Pence's office, which was put in charge of the whole-of-government effort on February 26th.¹³

Potential implications for corporations are significant. Corporations should consider several factors as they deal with disruptions to their day-to-day operations and aim to develop more forward-leaning strategic plans for longer-term healthcare issue mitigation. We provide an initial set of recommendations for corporations to try to minimize disturbances to their operations and



bottom lines. FutureGrasp (<https://www.futuregrasp.com/>) is available to talk to corporations and governments to further aid their reactions and future planning.

CORPORATE IMPLICATIONS

SUPPLY CHAINS DISRUPTED

A disrupted global supply chain is one major result of manufacturing sites and financial centers shutting down. As a global supplier, China provides everything from raw materials to finished products across all market sectors. “A Citi update on the coronavirus this week noted that overall Korean exports are down by almost ten percent so far this month while imports are lower by fifteen percent. The bank predicts worsening trade effects on South Korea for March. The Port of Long Beach [California] is also reporting a significant drop in container ship volumes by as much as forty percent... A possible unintended consequence of the coronavirus could be a tightening of supply chains [causing a reversion] back to a national economic champions policy in major economies.”¹⁴ C-suite leaders are struggling to deal with “extraordinary supply chain issues.”¹⁵

BUSINESS TRAVEL COMPROMISED

The airline industry is one of the first global market sectors dramatically compromised by China’s coronavirus outbreak. All major global airlines now have moratoriums on flying in and out of China. As of February 21st, there were 13,000 cancelled flights around Asia.¹⁶ Unfortunately, as major outbreaks occur in other States (Singapore, South Korea, Italy, Iran), we can expect that many other flights will not be up in the air. The United Arab Emirates and Bahrain cancelled all flights from Iran for a minimum of a week, with possible extended suspensions.¹⁷ Delta is reducing the number of flights to South Korea.¹⁸

Such a shutdown of air travel echoes the days following 9/11, when flights to the United States were grounded several days following terrorist attacks on New York City and Washington, D.C. At that time, many employees were trapped in Europe and Nova Scotia for weeks. Implications to business travel can be profound—will this lead to more remote working?

EMPLOYEES OUT OF OFFICE AND BEING STRANDED

When the coronavirus outbreak was finally recognized by the Chinese Government in Wuhan province, there began the world’s largest experiment in working from home. Around 60 million workers and their families were told in January to shelter at home until further notice.¹⁹ Although the Chinese Government is now telling people to return to work, their transition back will not be simple. Workers are commanded to wear masks, eat separately (not face-to-face), and not congregate.²⁰ How will routine business meetings be held? Moreover, businesses must now absorb costs for emergency equipment (masks, sanitizers, etc.). We should expect similar measures to be in place for other States when their employees return to the workplace.

Even if employees are not told to stay at home, there is the potential that local schools might close and thus their children might be sent home. The CDC on February 25th noted that schools might at a minimum have to separate children into smaller groups, with a worse case of mass local school closures possible.²¹ Hong Kong has closed its schools at least through Easter.²² Japan's Prime

Minister requested closure of all schools until April on February 27th.²³ For families that lack access or the financial ability to pay for daycare, that means at least one parent must remain home. Thus, a secondary effect of schools closing is that employees may be forced to take unscheduled leave or work in sub-optimal conditions.

Quarantined employees are also substantially compromised in their work output; a direct consequence of quarantines is that employees are no longer physically accessible. During the cruise ship quarantines, thousands of people were trapped on boats for weeks; the cruise ship industry is especially hard-hit with booking and cruise cancellations.²⁴ On February 25th, a Spanish hotel quarantined its entire several hundred person guest list, slipping letters under their room doors instructing them not to leave their rooms until further notice due to a single guest testing positive for coronavirus.²⁵ Cancelled flights, as noted above, also trap employees in foreign nations.

CONFERENCES CANCELLED

Large gatherings of international experts are being compromised by coronavirus. A recent spate of outright cancellations of technology conferences is underway now. Organizers are erring on the side of caution, as well as being outright forced by sponsorship withdrawals, to cancel their events.

In the last few weeks, several major events have been cancelled, postponed or are under consideration for go/no-go decisions. The world's largest phone conference, MWC [Mobile World Congress] 2020 in Barcelona, Spain, was cancelled outright, causing a financial hit to the city of almost a half a million Euros and the loss of thousands of part-time jobs.²⁶ Multiple sponsors pulled out of the security conference RSA 2020 in San Francisco, California. Facebook canceled its annual 5,000+ person F8 conference in May 2020.²⁷ Organizers of the international technology summit EmTech Asia announced that the event, scheduled for March 24-26 in Singapore, was postponed until August because of coronavirus concerns. "Companies stand to lose money on cancellations, [and] be forced to handle business that would get done at conferences in piecemeal fashion."²⁸ International Olympic Committee officials are assessing whether to proceed with the Tokyo 2020 Olympics.²⁹

LIABILITIES ARISING

What liabilities might corporations have with such dramatic shifts in how employees work and travel? There are a number of potential legal implications that US-based industry must be aware of; a partial list follows:^{30 31 32}

- **Occupational Safety and Health Act (OSHA):** Employers have a legal obligation to provide a safe and healthy workplace. How this is handled in the cases of coronavirus outbreaks remains to be seen.
- **Worker's Compensation – Disability Benefits:** Employees may be entitled to benefits in lieu of wages in the case where it can be medically proven that they contracted COVID-19 at the workplace.

- **Family and Medical Leave Act:** Companies with more than 50 employees are required to provide up to 12 weeks of unpaid leave to a qualified employee who has a “serious health condition.” Medical professionals must make that assessment.
- **Americans with Disabilities Act (ADA):** Employees who contract COVID-19 could conceivably qualify as a “disability,” and thus deserve certain treatments and accommodations.
- **Premises Liability:** Third parties who access company property are owed “reasonable care” to protect them against hazards. While a bit unclear on whether coronavirus would be considered a hazard in the eyes of a court, it is conceivable.
- **Culpability for Terminal Cases:** In the most serious case of employee deaths, there is potential for legal liability back to corporations from relatives of the deceased or insurance companies.
- **Provider Liability:** Delivery workers from large online retailers to service economy workers may inadvertently contribute to the spread of COVID-19.
- **Contracts:** Certain collective bargaining agreements or other contracts of employment may have specific terms regarding communicable illness policies. *Force majeure* event clauses under existing contracts might also be enacted to protect a company from liability. Such clauses have implications in insurance policy coverage. For example, would coronavirus be excluded as force majeure, precluding cost recoupment?
- **Discrimination Avoidance:** It is possible that certain races and ethnicities may be particularly susceptible or exposed more frequently to coronavirus; companies must be aware of this and ensure they are not unilaterally discriminating against such groups.

RECOMMENDATIONS

Deciding how to confront the risks generated by coronavirus is a critical test for corporate leaders. Objective, evidence-based information on the spread of the virus and its impacts on various global regions and industrial sectors is critical. Facing this challenge is a responsibility of all corporate stakeholders (shareholders, management, employees, suppliers and even customers).

A proactive stance is paramount for corporations to protect their employees; to weather disruptions to workflows and logistics; and to control legal ramifications. There are several actions that corporations can make in advance to prepare for the potential for a full-blown pandemic. FutureGrasp recommends the following actions be taken immediately by all global and even local companies:

- **Monitoring.** Corporations should closely monitor the numbers of cases and States and local regions with outbreaks relative to their employee locations and global supply chain. Information can thus be leveraged for proactive planning in all points below. Two dedicated coronavirus websites should be followed especially:
 - CDC: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
 - WHO: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>
- **Protect Talent.** Safe work environments are required even during normal operations, but even more so during global virus outbreaks. Corporations must invest now in safety gear (masks,

sanitizer, etc.), as well as video and other conferencing capabilities in the case of employees being forced to work offsite.

- **Cash and Credit.** Corporations should assess and increase their liquid cash reserves and assess their sustainable credit facilities to ensure against market downturns and loss of business and talent.
- **Supply Chain.** Corporations should plan on disruptions to their supply chain now, even if there are as yet no cases reported in a specific manufacturing site local region. Ports and airports may themselves be compromised in a company's home country, obviating receipt of critical inventory. Alternative Plans B and C+ must be created to go to other sites for raw materials, parts production and worker availability. Furthermore, to hedge against the risk of depleted inventories if supply chains don't return to normal in coming months, companies should have plans in place to manage inventories and production schedules prudently. They should give full transparency to their customers about what this will mean for product availability and prices until supply chains come back online.
- **Product Offerings.** A detailed assessment and possible realignment of product offerings should be undertaken at the soonest opportunity to maximize profit in case a given business vertical is compromised.
- **Business Travel.** Corporations should assess carefully whether a given trip is absolutely necessary for any employee. Employees should not be put in harm's way for the sake of business. Moreover, even if a region is safe now and flights are available at the time of booking, there is no guarantee that a given airline might not cancel its flight schedule mid-travel, trapping the given employee in a foreign State. Employees may also return from travel but be asymptomatic, thus exposing other healthy employees.
- **Communications.** Develop an Emergency Management System for communications with employees to inform them on operations and steps the firm is taking to minimize virus spread.
- **Employees Working from Home.** Contingency plans for all employees should be implemented in the case that a given local region or State is placed under quarantine for an extended period. Certainly, not all jobs can be done remotely. However, with new digital conference capabilities and cloud services, much of white collar work can be done from a home office. Employees should not be penalized, but rather encouraged to work from home in the case of a local outbreak.
- **Infrastructure Risks.** If local infrastructure services shutdown because of service employees being unavailable, there is risk that corporate sites could lose power, water, heat, etc. Identification of risk factors from loss of key infrastructures and strategy planning to mitigate these issues should be done for all manufacturing and office facilities.
- **Conference Attendance.** Businesses can no longer count on a given large conference proceeding. Alternative meeting and networking plans should be prepared in the case of an event cancellation.
- **Legal Planning.** General counsels should be consulted immediately and tasked with preparing contingency plans across the board for corporate employee relations and business operations. Individual contracts should be assessed for alternative workflow possibilities. Employees should be instructed in advance of legal stances by the company before any litigations proceed due to lack of communication.

- **Contract Reviews.** General counsels should review contracts, particularly those with specific deliverable dates, and determine whether *force majeure* clauses protect them from breach and/or whether they prevent them from enforcement or recovery due to breach by a contracting partner. Likewise, counsel should examine whether or not there are required notices that must be provided, as well as whether amendments or other actions to mitigate expected effects should be prepared.

ACTIONS FORWARD

We sincerely hope that coronavirus is contained and other potential epidemics and pandemics do not occur. Regardless of the current disease outcome, situational awareness and carefully prepared contingency plans in place to mitigate losses of both employee health and the bottom line are fully warranted.

FutureGrasp is developing and advising best practices and protocols (including those implemented within the last month in China) to minimize the risks to employees and businesses; to name a few:

- **Facilities:** building visitor policy guidelines and screenings procedures, for common area / common device removal and cleaning -- from access pads to lobby phones
- **Hospitality:** restaurant adaptations by limiting to takeout and delivery with preparation accountability
- **Services:** package handling and delivery protocols
- **Manufacturing:** local sourcing, local assembly and production, including short run 3d-printing

We will be evolving and continuing to release some of these best practices and protocols. FutureGrasp stands prepared to provide customized assistance to companies, of all sizes and sectors. Sign-up at <https://www.futuregrasp.com/contactdd9dff03> to receive our future updates on best practices, protocols and/or to see how we can help your organization.

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